

November 18, 1999

MEMORANDUM TO: William H. Bateman, Chief  
Materials and Chemical Engineering Branch  
**original signed by:**

THRU: Robert Hermann, Sr. Level Advisor  
for Materials Science  
Materials and Chemical Engineering Branch  
**original signed by:**

FROM: Meena K. Khanna  
Component Integrity Section  
Materials and Chemical Engineering Branch

SUBJECT: EXTERNAL NRC STAKEHOLDERS MEETING TO DISCUSS THE  
DEVELOPMENT OF GUIDELINES FOR VOLUNTARY INDUSTRY  
INITIATIVES

By a staff requirements memorandum (SRM) dated May 27, 1999, the Commission approved the use of voluntary industry initiatives as an appropriate substitute for NRC regulatory action, where the action to be taken is needed to meet existing requirements or for cases where a substantial increase in overall protection can be achieved with costs of implementation justifying the increased protection. The SRM was issued in response to SECY-99-063, "The Use by Industry of Voluntary Initiatives in the Regulatory Process," dated March 2, 1999.

On September 8, 1999, an internal NRC meeting was held to specifically determine guidelines to allow the drafting of an initial regulatory framework that supports the implementation of voluntary industry initiatives. A summary of this meeting, dated October 25, 1999, is publicly available.

On October 27, 1999, an external stakeholders meeting was held in Rosemont, Illinois, to obtain input from the industry and the Nuclear Energy Institute (NEI) and the public for the development of a regulatory framework to support the implementation of voluntary industry initiatives. A list of the meeting participants is provided in Attachment 1. The staff presented an outline of a process for the development of guidelines in order to facilitate discussion. The emphasis of the meeting was focused on nine areas, as specified in SECY-99-063: definition and initiation of voluntary industry initiatives, identification of staff and industry roles, tracking of licensee commitments, planning and resource allocation, fee management, developing inspection and monitoring guidelines, public participation, developing enforcement procedures, and schedule for finalizing guidelines/process. The meeting handout is included as Attachment 2.

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Upon completion of the NRC presentation, overview comments/suggestions were made by the staff. These comments/suggestions included:

1. the outline presented a proposal of what the staff believes needs to be addressed as the “elements” that should be included in these guidelines/protocol;
2. the staff has a commitment to the Commission to provide a draft guideline/protocol by May 2000, with the next step being the issuance of a Federal Register Notice requesting further public input;
3. the regulatory vehicle that is selected to establish the guidelines/protocol will, to some extent, dictate the process;
4. the industry, NEI, and public were requested to provide comments regarding the proposed guidelines/protocol; and,
5. a guidance document from NEI may be appropriate to serve as an alternative or supplement to the staff guidance for developing the protocol.

The staff then opened the discussion to the panel. Mr. Sumner, SNOC, provided a brief presentation of the Boiling Water Reactor Vessels and Internals Project (BWRVIP) and how it worked, since it was a successful voluntary initiative in dealing with BWR degradation issues.

In regard to the subject of voluntary industry initiatives, Mr. Marion, NEI, provided some comments, including:

1. there was an appreciation regarding the NRC comments of the difficulty in developing a framework and coming up with a rational process by which the NRC could use voluntary industry initiatives;
2. it was surprising that more stakeholders were not in attendance; and,
3. it appeared that the “NRC was struggling and trying to engage the stakeholders in developing a framework by which voluntary industry initiatives can be regulated, inspected and enforced,” implying that terminology needed to be defined, because if regulations, inspection, and enforcement are involved, then it's no longer a voluntary industry initiative.

In regard to Mr. Marion's third comment, Mr. Strosnider, NRC, indicated that what is being proposed is voluntary industry initiatives **in lieu of regulatory action** (emphasis added). Mr. Strosnider added that, given effective voluntary industry initiatives, “. . . the NRC would not feel compelled to take other regulatory actions in terms of what's already existing in our tool box.” Mr. Strosnider also stated that “. . . there's an implication there ... that if [the NRC] couldn't do this through some existing regulatory process, that [the NRC would] have to be careful of stepping over bounds and misusing these guidelines or protocol.”

Mr. Tuckman, Duke Energy, provided the following comments:

1. it is useful to have both the NRC and industry involvement in developing guidance to implement a “rule” in the most efficient way, since the NRC views things from a “regulatory sense” and the stakeholders view things from a “practical, industry sense;”

2. examples exist where the industry has developed guidelines in cooperation with the NRC for several activities, e.g., license renewal (NEI 95-10), the Pressurized Water Reactor Materials Reliability Project (PWR MRP), and the steam generator maintenance program; and,
3. some initiatives are appropriate for regulatory oversight while others were done for the industry's self interest.

The staff expressed its gratitude regarding the stakeholder's comments and suggestions. It was noted that the meeting was productive and that constructive feedback was obtained from the discussion with the stakeholders. However, the staff noted disappointment with the limited stakeholder attendance. The staff stated that a Federal Notice would be issued, which would explain the staff's objectives and expectations of the voluntary industry initiatives, and solicit additional stakeholder comments.

In addition, the staff committed to contacting the stakeholders in order to obtain additional input to determine if and when an additional stakeholders' meeting would be needed. It was also suggested that an additional meeting take place following the Commission's review of the process. Lastly, it was suggested that NRC/industry meetings on proposed voluntary industry initiatives be held semi-annually to facilitate industry and NRC budget planning. Additional detail on the stakeholders' comments for each of the areas discussed may be found in the transcript of the meeting that is publicly available.

Attachments:

1. List of Meeting Participants
2. Meeting Handout

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## OCTOBER 27, 1999, MEETING PARTICIPANTS

1. J. Strosnider, NRR
2. R. Hermann, NRR
3. C. Carpenter, NRR
4. M. Khanna, NRR
5. R. Palla, NRR
6. S. Stein, NRR
7. A. Marion, NEI
8. M. Tuckman, Duke Energy
9. C. Brinkman, ABB CENP
10. L. Sumner, SNOC
11. R. McCall, PECO
12. R. Dyle, Inservice Engineering
13. S. Kulat, Inservice Engineering
14. C. Dauley, Court Reporter

# **Process Development for Implementation of Voluntary Industry Initiatives In Lieu of Regulatory Actions**

## **Stakeholders Meeting**

**October 27, 1999**

### **Table of Contents**

#### Development of Guidelines/Process for Voluntary Industry Initiatives

- C Background
- C Definition and Initiation of Voluntary Industry Initiatives
- C Identification of Staff and Industry Roles
- C Tracking of Licensee Commitments
- C Planning and Resource Allocation
- C Fee Management
- C Developing Inspection and Monitoring Guidelines
- C Public Participation
- C Developing Enforcement Procedures
- C Schedule for Finalizing Guidelines/Process

## **Background**

Use of Voluntary Industry Initiatives (VII) in the Regulatory Process:

- C SECY-99-063 (March 2, 1999) Proposed That VII Are Acceptable as a Substitute for NRC Regulatory Action.
  - < Action Needed to Meet Existing Requirements
  - < Increase Overall Protection with Justifiable Implementation Costs
- C Staff Requirements (SRM) - SECY-99-063 (May 27, 1999) Requested Staff To:
  - < Agreed VII Can Be Acceptable in Lieu of Regulatory Action
  - < Move Forward with Industry and Other Stakeholders to Develop Process and Guidelines
  - < Provide Results to Commission Prior to Implementation (May 2000)
  - < Address Concerns Regarding Enforcement and Potential Licensee Failure to Meet Commitments Stressed by Commission
  - < Decision-making Process to be Formalized
  - < Public Confidence to be Considered

## **Definition of Voluntary Industry Initiative Approach**

Types of Voluntary Industry Initiatives:

- C Those That Substitute for Regulatory Actions (e.g., GL's, Rulemaking, etc.) For Issues Within the Design Basis
  - < e.g., BWR Vessels and Internals Project (BWRVIP)
- C Those That Address Significant Issues (Including Risk-based) That Are Outside the Design Basis, but Are Justifiable as a Safety Enhancement
- C Those That Address Issues Which Are of Low Risk and Safety Significance, but Allow Significant Resource Savings to Staff and/or Industry

**Note:** Issues That Deal with Adequate Protection Are Addressed by the NRC.

### **Initiation of Voluntary Industry Initiatives**

- C How Initiated?
- C How Characterized in Terms of Significance?
- C What Is Threshold to Define a Voluntary Initiative?
- C Guidance Needed on Creating Time Lines for Establishment of Initiatives
- C What Level of Management (NRC and Industry) Pursues and Endorses Initiation of Initiative?
- C How Documented?

### **Identification of Staff and Industry Roles**

- C Need to Identify Staff and Industry Interfaces
  - < Contacts Should Include Naming of Lead Industry Management and Technical Contacts and NRC Management, Project Manager and Reviewer Leads
- C Nature of Initiative May Include:
  - < Staff Review and Approval of Topical Reports
  - < Staff Review and Comment on Industry Guideline Documents
  - < No Staff Reviews and Only Inspection Follow-up

### **Tracking**

- C Develop Guidance for Tracking Licensee Commitments
- C Tracking of Resources Included in the Fiscal Process and Operating Plan
- C Inform Stakeholders of Status

### **Planning and Resource Allocation**

- C Establish Process for Developing Industry and NRC Plans and Schedules to Support Budgeting and Resource Assessments
- C Establish Interface Contacts for Planning and Resource Allocations
- C Provide Data to Support NRC PBPM Budgeting Process

### **Fee Management**

- C Develop Appropriate Guidance for Assessment of NRC Fees That Involves Review of Proposal
  - < What Is the Criteria for Billing?
  - < Who Gets Billed?
- C Implementation of Tracking System for Fees
  - < Does it Fit into Present System?
  - < General Overhead Funding or Initiative-Specific?

### **Inspection and Monitoring Guidelines**

Establish Inspection and Monitoring Plan Based upon Program Committed to by Licensees

- C Include Tracking of Industry Commitments Associated with Voluntary Initiatives Used in Lieu of Regulatory Actions
- C Include Inspection Monitoring
  - < Use Risk-informed Baseline Inspection Program and Oversight Process
  - < Create Temporary Instructions (TIs) for Regional Inspectors
  - < NRR May Present Program to Regional Inspectors to Facilitate Uniformity

## **Public Participation**

Process Must Provide Forum for Public Participation and Reasonable Access to Information When Complementing or Substituting for a Regulatory Action.

- C Appropriate Information Is Available to Keep Public Informed and to Support Public Participation.
  - < Internet Availability of Voluntary Initiative Announcements, Reports, and Safety Evaluations
- C Issues Such as the Proprietary Nature of Material to be Addressed
- C Vehicle/Methodology Needed for Public Input and Comments

## **Enforcement**

- C SRM 99-063 States, "The Staff Has Indicated That it Will Assess the Enforceability of Commitments in the Development of the Voluntary Industry Initiative Process. As the Staff Proceeds with this Initiative, it Should Ensure the Guidelines, That Are Developed Regarding Enforcement, Are Consistent with the Proposed Reactor Oversight Process Improvements and Are Clearly Communicated to Our Stakeholders."
- C Risk-informed Inspection Process Is Dependent upon Significance of Findings. Enforcement Criteria Below Are Consistent with the Pilot Program.
  - < Low to Moderate Risk Significant Issues Should be Identified to Licensee as Deviations from Commitments and Included in Corrective Action Program. For Safety-related Items Within Current Licensing Basis and Included in Appendix B Program, Findings Treated the Same Way as Any Other Non-compliance.
  - < Highly Risk Significant Issues and Willful Non-compliance with Committed Program Identified to Licensee and Actions Taken to Initiate Enforcement per Atomic Energy Act 182 and Issuance of 50.54(f) Letters and Orders, If Necessary.

### **Schedule for Finalizing Guidelines/Process**

May 27, 1999	SRM Issued
June 30, 1999	Discussion with NMSS Management Regarding Applicability
July 13, 1999	Meeting with OE/OGC to Discuss Enforcement Issues
September 8, 1999	Internal Stakeholders Meeting
October 12, 1999	Meeting Noticed and Information Placed on NRC Web
October 27, 1999	External Stakeholders Meeting
November 30, 1999	Federal Register Notice Soliciting Comments by 01/15/2000
March 30, 2000	Guidelines/Process Drafted
May 24, 2000	Guidelines/Process Due to Commission